



July 23, 2012

PM-602-0072

Policy Memorandum

SUBJECT: USCIS Policy for Accommodating Religious Beliefs during Photograph and Fingerprint Capture

Purpose

This policy memorandum (PM) sets forth policy for the capture of photographs or fingerprints by U.S. Citizenship and Immigration Services (USCIS) employees and contractors during the course of their duties. This PM explains when accommodations are to be offered to individuals wearing religious headwear or professing religious beliefs, what accommodations should be offered, and to whom the accommodations should be offered. Additionally, USCIS will continue to deny requests for a waiver of the photograph requirement, in line with existing guidance.¹ USCIS will not waive the photograph requirement, in any situation, based on a religious objection.

Scope

This PM applies to, and is binding on, all USCIS employees and contractors unless specifically exempt.

Authority

The power and duties of the Secretary of Homeland Security pursuant to section 103(a) of the Immigration and Nationality Act (INA), Title 8, U.S. Code (8 U.S.C.) section 1103(a), as delegated to the Director of USCIS. See also, Title 8, Code of Federal Regulations (8 CFR) parts/sections 103.2(e) and 333.

Background

On December 30, 2011, the Office of Civil Rights and Civil Liberties issued [Guidance for Accommodating Religious Beliefs in DHS Policies Requiring Fingerprinting or Photographic Identification](#) (DHS Guidance). This DHS Guidance provides direction for DHS Offices and Components in developing policy for accommodating religious beliefs when the Office or Component requires an individual to pose for, or provide photographs, or submit to fingerprinting. The DHS Guidance addresses accommodations in the manner in which

¹ See the February 14, 2003, memo, *Waiver of Photograph for I-90, Applicants Seeking a Replacement or Renewal Form I-551*. Photographs may not be waived in the I-90 context based on religious or ethnic reasons. If someone is confined due to advanced age or physical infirmity, USCIS shall accommodate the applicant by going to their home to capture a photograph.

photographs are taken; the guidance does not provide for a waiver of the photograph requirement.

Policy

Photograph Standards

USCIS is required by law to capture and verify the appearance of individuals,² whether the photograph is being captured at an Application Support Center (ASC) or Field Office or is mailed to USCIS as part of an application or petition filed with USCIS. USCIS will not waive the photograph requirement, in any situation, based on a religious objection.

On July 29, 2004, USCIS issued a memorandum titled, *Change in Photograph Standard*.³ In this memorandum, USCIS adopted the Department of State's (DOS's) photographic standards for passport-style photographs.⁴ On August 25, 2004, USCIS issued another memorandum titled, *Reminder of Change in Photograph Standard*,⁵ in which USCIS makes clear the photographic guidance from DOS completely replaces previous USCIS guidance issued on photograph standards, to include any religious accommodations for photographs. It should be noted that the DHS Guidance recognizes these DOS photograph standards.

Photograph Capture

USCIS will ask individuals to remove headwear that is not religious at the time of photograph capture. However, USCIS will accommodate an individual who wears headwear as part of their religious practices. Religious headwear can be worn if a reasonable likeness can be obtained from an individual, the full face is visible and the religious headwear does not cast a shadow on the face. Therefore, USCIS will ask an individual to remove or adjust portions of religious headwear that covers all or part of the individual's face. Even if the religious headwear does not cover the face, the religious headwear may cast a shadow on the face, making the capture of the entire face impossible. In those instances, USCIS will ask an individual to adjust or remove religious headwear, if necessary, to avoid a shadow being cast on the face. An individual's ears should be exposed, but religious headwear is allowed to cover the ears if USCIS can still identify the individual.

When USCIS requests that an individual adjusts or removes part or all of his or her religious headwear, the ASC or Field Office will offer a private room or screened area to capture the photograph, when a private room or screened area is readily available. Additionally, if there is a USCIS employee or contractor of the same gender available to capture the photograph, the ASC or Field Office will offer the individual a same-gender photographer. If the ASC or Field Office is not able to offer a private room/area or a same-gender photographer, USCIS will offer to

² See 8 CFR 103.2(e)(2).

³ See <http://connect.uscis.dhs.gov/workingresources/immigrationpolicy/Documents/photospecs72904.pdf>.

⁴ In adopting the DOS photograph standards, USCIS changed from a ¾ profile photograph to a full frontal photograph. See <http://travel.state.gov/pdf/Photo%20Guide%202010-01-04.pdf> for a specific discussion of DOS photograph standards, including prohibition on hats or headcoverings unless used for religious purposes, in which case, the full face must still be visible and the religious headwear must not cast a shadow on the face.

⁵ See <http://connect.uscis.dhs.gov/workingresources/immigrationpolicy/Documents/PhotoRmnd082504.pdf>.

reschedule the appointment, whether it is for photograph capture at an ASC or photograph capture in connection with an interview at a Field Office, for a different day or at a different office where it is feasible to accommodate the individual's request.

Fingerprint Capture

ASCs and Field Offices also capture fingerprints of individuals. USCIS is required to capture classifiable fingerprints in connection with the adjudication of immigration benefits.⁶ Many times, USCIS employees and contractors must physically assist an individual by holding his or her hand to obtain prints. There are religions that limit or prohibit members of their religion from physically touching a person of the opposite gender. In these instances, upon request, ASCs and Field Offices will accommodate individuals who request a same-gender fingerprint technician or Officer, if possible. If there are no same-gender technicians or Officers available to capture the fingerprints, USCIS will reschedule the appointment or interview for a different day or at a different office where it is feasible to accommodate the individual's request.

Use

This PM is intended solely for the guidance of USCIS personnel and contractors in the performance of their official duties. It is not intended to, does not, and may not be relied upon to create any right or benefit, substantive or procedural, enforceable at law or by any individual or other party in removal proceedings, in litigation with the United States, or in any other form or manner.

Contact Information

Questions regarding this PM should be directed to the Enterprise Services Directorate through appropriate channels.

⁶ See 8 CFR 103.2(e)(2).